



LEGISLATIVE BULLETIN

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Excess Revenues

Whether local legislative bodies (councils or town meetings) retain the right to determine how revenue generated from the sale of tax acquired property, if any, is invested, will be decided by the members of the Taxation Committee. The committee will convene on February 16 at 1:00 p.m. to work and potentially vote on LD 101, *An Act to Return to the Former Owner Any Excess Funds Remaining After the Sale of Foreclosed Property*.

In a nutshell, LD 101 seeks to establish a post-foreclosure process requiring municipalities to sell tax acquired property and to share “excess revenues” with the previous owner. Should disagreement arise with respect to the amount of revenue to be returned, negotiations and potential binding arbitration is required. Currently, unless councils or town meetings direct the proceeds from a sale be returned to the previous owner, those revenues are retained by the community and invested as instructed by the residents.

Municipal officials strongly oppose the initiative, as the existing foreclosure process is appropriate, fair, and far from instantaneous. The path from the assessment of property to foreclosure is nearly a three-year journey that involves the council or town meeting, budget committee, assessor, tax collector, treasurer, and municipal officers, each with prescribed roles. Budgets are prepared and adopted, taxes are committed, due dates are established, bills are mailed, 30-day notices are sent, and liens are recorded. At every turn, the current system requires the implementation of administrative procedures that are appropriately and intentionally designed to protect the property owner’s interest.

However, the bill’s sponsor, Rep. Chad Perkins of Dover-Foxcroft, believes additional administrative steps are needed to put an end to the “equity theft” that occurs when municipalities sell property and do not return excess revenues to previous owners. As described in his testimony, the theft occurs when “a homeowner who has built up equity in their home can lose that equity after their home has been lost through foreclosure due to delinquent taxes or a water or sewer lien for values that are far below the value of their equity.”

Under the terms of the initiative, the calculation of excess revenues takes one of two forms. The first is if the property

is sold within six months of acquisition. In that case, the excess is calculated as the difference between the sales price and the back taxes owed and the expenses associated with the foreclosure. However, if the property is not sold within the six-month period, then the excess is calculated as the difference between the fair market value of the property less all related expenses. Even though the community has not collected taxes or revenue from the sale, the non-existent “excess” needs to be returned.

The generation of a profit and the certainty of a sale within 180 days expectations, do not reflect the reality and

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LD 2003 Housing Rules

Wednesday, February 8, 2023, the Department of Economic and Community Development released rules guiding the implementation of LD 2003, *An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*, which was signed into law April 27, 2022.

The department rules are available here: <https://www.maine.gov/decd/housingopportunityprogram> and the comment period on the rules will remain open until **Monday March 13, 2023 at 5:00 p.m.**

A public hearing will be held on **Wednesday, March 1, 2023, at 1:00 p.m.** via Zoom. Municipal officials are encouraged to sign up to attend the public hearing and can do so via the registration link here: https://mainestate.zoom.us/meeting/register/tZEqf-2srjMqEtCNTOPsCq4_Buoc-7dRGTvVK.

Additionally, comments can be submitted to the Housing Opportunity Program Coordinator, Benjamin Averill via the website, mail, or email at: housing.decd@maine.gov

Members can receive the updated MMA legal guidance through the login portal and this link: <https://memun.org/Articles/Article-View/ArticleId/22068/Affordable-Housing-Law-Updated-Guidance-for-Municipalities#.Y-VyC3bMKUK>

Excess Revenues (cont'd)

the condition of tax acquired properties. The provisions in LD 101 assume that communities have acquired property that is ready or suitable for market, when often these properties are in disrepair, and at times uninhabitable. Long-deferred maintenance, the effects of abandonment, and environmental hazards, such as, the evidence of asbestos, and lead paint and pipes, can cause any property to remain on the market long past the six-month mark. This bill would force the cost of repairs and potential demolition upon the property taxpayers, again without the benefit of collecting taxes on the property.

Undeterred, the sponsor wants Maine to join the other states in the nation that have adopted statutes prohibiting the unlawful taking of equity. According to a map submitted along with the sponsor's testimony, 25 states have adopted policies that "consistently protect home equity." When a committee member asked, "how often this occurs in Maine and the amount of money municipalities keep from the people," a conditioned 800 properties over the last two years was the response. The condition being that due to the timing of the hearing, Rep. Perkins had not received responses from all the freedom of access requests necessary to verify the number but was working on it.

To his credit, Rep. Perkins testified that many communities go over and above to keep residents in their homes and the property on the tax rolls and that taxes need to be levied to fund important public services.

While municipal leaders support these observations, this is where the agreement ends.

When property owners do not contribute their fair share for the services received, others in the community are either subjected to increases in property taxes, reductions in services or a combination of increased taxes and reduced services. While it may not be a popular sentiment, the threat of the loss

of property provides an incentive to pay taxes or to seek assistance to do so and protects the interests of other taxpayers in the community. It is a tool, like the processes in place to ensure the collection of state sales and income taxes.

Unfortunately, the sponsor is not alone in his support of LD 101, as legislators serving on the committee questioned why municipalities should be treated any differently than the mortgage companies that are required to return excess revenues. Additionally, some of the proponents of the bill believe that to attain the true market value, tax acquired

properties should be sold by auction, regardless of the processes in place to dispose of property adopted by the residents in those communities.

Unlike mortgage companies, municipal leaders send property owners repeated notices along with pleas to file for abatements, offers to work on payment plans or other arrangements, to ensure the owners can retain the property. Despite this outreach that continues long after the owners have stopped paying property taxes, some still believe LD 101 is needed.

Hearings of The Week: TIF Use & Cadet Injuries

TIF & Municipal Buildings. The Taxation Committee will conduct a public hearing on LD 286, *An Act to Authorize the Use of Tax Increment Financing Funds for Constructing or Renovating Municipal Offices and Other Municipal Buildings*. The hearing will take place at **1:00 p.m. on Tuesday, February 14** in room 127 of the State House.

This bill, sponsored by Rep. Nathan Carlow of Buxton, allows tax increment financing (TIF) district revenue to be used for the construction or renovation of municipal offices or other municipal buildings when the legislative body (e.g., town meeting or council) of the municipality determines that conditions exist that impair the proper functioning of government or hinder economic vitality. The bill provides that the construction costs may not exceed the lesser of 10% of the assessed value of the district or \$3 million during a 20-year period in a TIF district.

Cadet Injuries. The Criminal Justice and Public Safety Committee will conduct a public hearing on LD 215, *Resolve, to Require the Commissioner of Public Safety to Conduct a Study Regarding Cadet Law Enforcement Officers Who Are Injured and Law Enforcement Officers Who Leave the Sponsoring Agency*. The hearing will take place at **10:00 a.m. on Wednesday, February 15** in room 436 of the State House.

The resolve, sponsored by Rep. Chad Perkins of Dover-Foxcroft, directs the Commissioner of Public Safety to conduct a study regarding the number of: (1) cadet law enforcement officer injuries that resulted in lost training time, workers' compensation claims, or temporary or permanent disability claims; and (2) law enforcement officers who had their training costs paid by a sponsoring agency but left that agency within one year of completion of the basic law enforcement training at the Maine Criminal Justice Academy. The bill further directs the commissioner to submit a report of its findings to the Legislature by December 6, 2023.

HEARING SCHEDULE

For the week of February 13, 2023

MONDAY, FEBRUARY 13

Criminal Justice & Public Safety
Room 436, State House, 10:00 a.m.
Tel: 287-1122

LD 4 – An Act to Update Provisions of the Department of Corrections Laws Regarding Operation and Administration of Jails, Women’s Services and Juvenile Detention

Inland Fisheries & Wildlife
Room 206, Cross Building, 1:00 p.m.
Tel: 287-1338

LD 92 – An Act to Minimize the Propagation of Invasive Aquatic Plants

Veterans & Legal Affairs
Room 437, State House, 10:00 a.m.
Tel: 287-1310

LD 355 – An Act to Refocus the Purpose and Duties of the Cannabis Advisory Commission

TUESDAY, FEBRUARY 14

Energy, Utilities & Technology
Room 211, Cross Building, 1:45 p.m.
Tel: 287-4143

LD 376 – An Act to Repeal the Law Regarding the Northern Maine Renewable Energy Development Program

Health Coverage, Insurance & Financial Services
Room 220, Cross Building, 1:30 p.m.
Tel: 287-1314

LD 274 – An Act Regarding Municipal Costs for Water Used for Firefighting

State & Local Government
Room 214, Cross Building, 1:00 p.m.
Tel: 287-1330

LD 354 – An Act to Amend the Laws Regarding the Use of Engineers on Public Works Projects over \$100,000

LD 383 – An Act to Restore Legislative Oversight of Rulemaking

Taxation
Room 127, State House, 1:00 p.m.
Tel: 287-1552

LD 191 – An Act to Amend the Laws Regarding Certain Business Equipment Tax Benefits

LD 286 – An Act to Authorize the Use of Tax Increment Financing Funds for Constructing or Renovating Municipal Offices and Other Municipal Buildings

WEDNESDAY, FEBRUARY 15

Criminal Justice & Public Safety
Room 436, State House, 10:00 a.m.
Tel: 287-1122

LD 215 – Resolve, to Require the Commissioner of Public Safety to Conduct a Study Regarding Cadet Law Enforcement Officers Who Are Injured and Law Enforcement Officers Who Leave the Sponsoring Agency

LD 244 – Resolve, Directing Maine Emergency Medical Services to Convene a Stakeholder Group to Explore Emergency Medical Services Career Pathways and Educational Opportunities in the State

Environment & Natural Resources
Room 216, Cross Building, 10:00 a.m.
Tel: 287-4149

LD 188 – An Act to Require the Department of Environmental Protection to Pay for Certain Water Tests for Perfluoroalkyl and Polyfluoroalkyl Substances

LD 242 – An Act to Clarify That Animal Health Products Are Exempt from the Perfluoroalkyl and Polyfluoroalkyl Substances Reporting Law

11:00 a.m.

LD 276 – An Act to Assist Municipalities in Preventing Damage from Storm Water

LD 319 – An Act to Amend Maine’s Underground Oil Storage Tank Laws

THURSDAY, FEBRUARY 16

Education & Cultural Affairs
Room 208, Cross Building, 1:00 p.m.
Tel: 287-3125

LD 280 – An Act to Make Maine Schools Safer and Healthier by Increasing the Maximum Debt Service Limit

LD 386 – An Act to Assist Schools with Heating and Transportation Fuel Costs During the School Year

Health Coverage, Insurance & Financial Services
Room 220, Cross Building, 1:00 p.m.
Tel: 287-1314

LD 362 – An Act to Clarify Coverage for Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Under the State Employer Group Health Plan

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearings and work sessions can be found on the Legislature’s website at: <http://legislature.maine.gov/calendar/#Weekly/>. There is also the option testify via Zoom if you register 30 minutes in advance. Persons wishing to testify over Zoom can submit their testimony by uploading it through the registration portal (<https://www.mainelegislature.org/testimony/>).

Judiciary
Room 438, State House, 1:00 p.m.
Tel: 287-1327

LD 347 – An Act Regarding In-court Appearance Requirements for Persons Authorized to Serve Eviction Notices and the Process for Serving a Writ of Possession

Labor & Housing
Room 202, Cross Building, 1:00 p.m.
Tel: 287-1331

LD 53 – An Act to Ensure Accountability for Workplace Harassment and Assault by Removing Intentional Acts and Omissions from Workers’ Compensation Exemption

LD 245 – An Act to Require a Person Receiving Unemployment Benefits to Attend Scheduled Interviews to Fulfill the Work Search Requirement

LD 301 – An Act to Exempt Employers from Providing Earned Paid Leave for Certain Employees

LEGISLATIVE BULLETIN

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First Bills Voted Out of Committee

This week, two committees: Environment and Natural Resources (ENR) and Criminal Justice and Public Safety (CJPS), voted out bills of municipal interest making quick work of important policy, while roughly 600 of the over 2,300 proposals have been printed.

On Wednesday, the ENR committee quickly disposed of LD 127, *An Act to Eliminate Television Recycling Fees for Charitable Entities*, sponsored by Sen. Trey Stewart of Aroostook County, with his encouragement. Hearing that Sen. Stewart felt this problem did not require a legislative intervention, members voted unanimously on the “ought not to pass” motion.

While ENR laid the television set bill to waste, CJPS was interrogating the merits of LD 96, *An Act to Ensure Release of Relevant Background Investigation Material to Current Employers of Law Enforcement and Corrections Officers*, sponsored by Rep. Scott Cyrway of Albion. The department requested bill, detailed in the February 3 edition of the Legislative Bulletin, received two amendments to the final version. The first amendment clarifies that any suspected or confirmed criminal activity of an applicant discovered during an employment background investigation and currently employed by another law enforcement agency should only be disclosed to the head of the employing agency by the head of the hiring agency.

The second amendment was submitted by MMA staff and provides immunity to the hiring agency for that suspected criminal activity disclosure and any subsequent adverse employment action taken by the employing agency, clarifies that the disclosure is restricted to the information in current law for polygraph results, and allows the board to develop a single applicant waiver informing the individual of the potential disclosure while providing permission to the employing agency for the release of their employment records.

Following the examination, the CJPS members unanimously supported LD 96 with an “ought to pass as amended” motion.

Although these two committees have met and voted out proposals, others are still waiting for public hearings to be scheduled. Of the printed bills, 82 bills with potential municipal impacts do not contain the language necessary to assess the intended policy’s impact on government services and programs. Referred to as “concept drafts” the goals of these bills remain unknown until the day the public hearing is held.

Staff will keep a watchful eye on the proposals and hope that the committees

receiving them will also consider holding a second public hearing to allow governments and interested parties to fully vet the language and inform the policy. Municipal officials know that statements of a bill’s intent truly need the legal statutory language to not only achieve the policy, but to prevent unintended consequences.

As the CJPS and ENR committees demonstrated this week, bill language is important, gets the right stakeholders in the room, deserves exploration, and aids with better public policy development.

Election Reforms: Photos, Postage & Process

This week the Veterans and Legal Affairs committee gathered to conduct public hearings on three bills of municipal interest that contend with the voting process: (1) LD 34, *An Act to Require a Person to Show Photographic Identification for the Purpose of Voting*; (2) LD 237, *An Act to Require a Registered Voter to Update the Registration*; and (3) LD 26, *An Act to Provide Postage Prepaid Return Envelopes to Voters Who Send Absentee Ballots by Mail*, in that order.

The public hearing on LD 34 kicked off with the bill sponsor, Sen. Matthew Pouliot of Kennebec County, testifying to the importance of the measure. Simply put, the bill would help to address the public misconception of voter fraud within elections in Maine. There was significant testimony in support of this bill with several interested parties testifying that taking the step of requiring voters to show photo identification to receive a ballot would increase the security and integrity of the election process.

Maine Secretary of State, Shenna Bellows, testified in opposition to the bill describing the processes the department had undertaken to flesh out the number of voters who do not have a Maine driver’s license or state identification card. Secretary Bellows added that out of the approximately 103,000 citizens who are eligible to vote in Maine who fall into that category, the department does not

know if those individuals have a passport or other federal form of identification.

Also opposed were representatives from Disability Rights of Maine, Maine Transgender Network, Maine Women’s Lobby, League of Women Voters of Maine, AARP, and Maine Conservation Voters, among others. The testimony offered in opposition to the initiative cited barriers for people with disabilities, elderly residents, and transgender individuals who don’t present as the same gender on their identification.

MMA and the Maine Town and City Clerks Association (MTCCA) provided testimony neither for nor against the bill. Although any attempt to combat voter fraud is appreciated, the added level of responsibility to the election clerks, and the possibility of eligible voters being excluded from the process, is still of grave concern. MMA requested that a mandate preamble be added to the bill because the measure shifts additional responsibilities onto the municipalities without necessary funding.

Immediately following the public hearing on LD 34, some of the same folks stuck around for the hearing on LD 237, sponsored by Rep. Abigail Griffin of Levant. This bill would require residents who are registered to vote to update their voter registration every four years.

When this bill was originally presented to the Legislative Policy Committee

(continued on next page)

(LPC), silence fell upon the room. One member spoke up wondering why this bill was being brought forward and likened the idea to a self-licking ice cream cone and trying to solve a problem that is simply not there—ultimately electing to oppose the bill.

In addition to MMA, the Secretary of State, Attorney General, AARP, Maine Council on Aging, Maine Education Association, and the ACLU also testified in opposition to LD 237 with most leading in with a similar sentiment to that of MMA...why? While municipal leaders agree that elections need to be as secure as possible and that all individuals should have the ability and access to cast their vote, it seems superfluous to throw up unnecessary obstacles that can affect the most vulnerable residents.

As with LD 34, MMA requested in its testimony that the committee add a mandate preamble, as the bill seeks to expand the duties of local governments.

The marathon session of public hearings continued with LD 26, sponsored by Sen. Anne Carney of Cumberland County, and cosponsored by a myriad of other legislators. This bill would direct the Secretary of State's office to furnish postage paid return envelopes to those individuals who request an absentee ballot. Both MMA and the MTCCA had

concerns over the possibility of an immense amount of wasted postage, but that issue was quelled when Secretary Bellows mentioned in her testimony that while the envelopes are mailed, the state will only be charged when the return envelope is used and activated within the postal system.

MMA testified neither for nor against LD 26 because the bill directs the Secretary of State's office, rather than municipalities, to shoulder the financial burden of the return envelopes. However, the Association also urged committee members to amend the bill to include a stipulation that municipalities are not required to supply postage paid return envelopes for local elections and that this is only for state elections.

The committee was also scheduled to hold a work session on LD 202, the initiative seeking to further regulate off-premises sales of adult use cannabis. However, due to the late hour, Sen. Craig Hickman of Kennebec County suggested the work session be postponed until the next week so that committee members did not feel rushed to make decisions.

Work sessions on the three elections bills had not been scheduled as of the publication of this edition of the Legislative Bulletin.

Funding Volunteer Programs

On Tuesday, the Education and Cultural Affairs committee held work sessions on LD 142, *An Act to Fund Climate-related Service Work* and LD 143, *An Act to Support Rural Service Programming and Promote Volunteerism*, both sponsored by Rep. Morgan Rielly of Westbrook.

In the overview of the legislation, the analyst noted that since LD 142 requests revenues to fully fund the Maine Climate Corps, the bill would need to be amended to include a fiscal note appropriating \$1.84 million annually. After little discussion, the committee voted "ought to pass as amended," by a margin of 6 to 4. The minority report was "ought not to pass."

Similarly, LD 143 generated little discussion as most committee members recognize the need for investments in rural communities that are not typically eligible for AmeriCorps programming. This bill also received a majority "ought to pass as amended" vote to account for program costs, which are predicted to range from \$570,000 in FY 2024 to \$641,200 in FY 2027. The minority report was "ought not to pass."

IN THE HOPPER

Criminal Justice & Public Safety

LD 4 – An Act to Update Provisions of the Department of Corrections Laws Regarding Operation and Administration of Jails, Women's Services and Juvenile Detention (Sponsored by Rep. Pluecker of Warren.)

This bill: (1) repeals the County and Municipal Detention Facility Advisory Committee and reassigns the tasks of advising the commissioner of the Department of Corrections (DOC) on jail related matters to the County Corrections Professional Standards Council; (2) authorizes the Bureau of Alcoholic Beverages and Lottery Operations to reduce lottery winnings by the amount owed to a victim via court order; (3) repeals and replaces language regarding the accreditation of correctional and detention facilities by requiring operations to be reviewed at least once every three years by a nationally recognized best practices reviewing body; (4) authorizes the DOC commissioner to appoint a director of women's services as the chief administrative officer in any adult correction facility that houses women; (5) renames the chief administrative officers of the Mountain View Correctional

(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the Legislative Bulletin to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, www.memun.org.)

Facility and the Downeast Correctional Facility as wardens; and (6) repeals provisions of existing law referring to the Mountain View Correctional Facility as a juvenile facility.

Labor & Housing

LD 214 – An Act to Amend the Laws Regarding Zoning and Land Use Restrictions to Limit Certain Requirements to Municipalities with a Population of More than 10,000 (Emergency) (Sponsored by Rep. Campbell of Orrington)

**MAINE MUNICIPAL
ASSOCIATION SINCE 1936**

60 Community Drive
Augusta, ME 04330

IN THE HOPPER (*cont'd*)

This bill makes certain provisions enacted in the 2022 housing bill (LD 2003) applicable only to municipalities with populations over 10,000, including requirements allowing up to four dwelling units per lot on lots that are either empty or served by a public water or sewer; and (2) allowing for an accessory dwelling unit on the same lot as a single-family dwelling in areas in which housing is permitted.

Taxation

LD 89 – An Act to Clarify Eligibility for Property Tax Stabilization for Individuals 65 Years of Age or Older. (Sponsored by Rep. Moriarty of Cumberland)

For property tax years beginning on or after April 1, 2024, this bill expands eligibility for the property tax stabilization program to the surviving spouse of an eligible individual provided as they were married for at least 10 years before the eligible individual's death.

LD 130 – An Act to Eliminate Senior Citizen Property Tax Stabilization and Expand the Homestead Property Tax Exemption (Sponsored by Sen. Bennett of Oxford Cty.)

As of April 1, 2024, this bill repeals the property tax stabilization program and extends a \$75,000 homestead to a permanent resident of Maine who is 65 years of age or older and who has resided in the homestead for at least 10 years.

LD 191 – An Act to Amend the Laws Regarding Certain Business Equipment Tax Benefits (Sponsored by Sen. Stewart of Aroostook Cty.)

This bill excludes from eligibility for the business equipment tax exemption and the business equipment tax reimbursement a person that, based on third-party certifications, bans, boycotts or otherwise restricts or prevents the sale or distribution of any product that is legally produced, harvested, or grown in Maine.

LD 334 – An Act to Ensure the Full Value of the Balance of Registration Fees Is Retained by the Seller of Used Motor Vehicles (Sponsored by Sen. Libby of Cumberland Cty.)

This bill allows a person who transfers ownership of one or more vehicles to receive credits for the vehicle registration fee or fees to pay the registration fee of another vehicle in the same registration year.

Transportation

LD 31 – An Act to Allow the Commissioner of Transportation to Reduce Speed Limits at Construction Sites with Input from Municipalities and Utilities. (Sponsored by Sen. Farrin of Somerset Cty.)

With guidance from a municipality or utility engaged in a construction project on a public way where construction workers are present, this bill allows the Commissioner of Transportation to temporarily reduce the posted speed limit and requires the adoption of routine technical rules, including the criteria that must be met before posted speed limit is reduced.